IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

S.B.CIVIL MISC. APPLICATION NO.137/2006.
IN
S.B.CIVIL SECOND APPEAL NO.277/2005.

Mangtu. **VERSUS** Om Prakash.

19.09.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mr.Arvind Gupta, for the applicant-appellant.
Mr.B.L.Mandhana, for the respondent.

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This misc. application has been filed which was presented before this court on 19.09.2005 but for the reason, the petitioner has chosen not to pursue the same and it was only on 08.09.2006 after a period of one year that this misc. application was listed before the court.

While deciding S.B.Civil Second Appeal No.277/2005 time was allowed to the appellant, applicant herein, for vacating the premises upto 31.12.2007. As per the aforesaid order of this court dated 18.07.2005 while deciding the second appeal the appellant was required to pay all the arrears of rent upto 31.07.2005 and was required to pay the rent month by month by 15th of next succeeding month. In addition to the above, the appellant-applicant was also to submit an undertaking before the trial court within a period of six weeks to the effect that he would handover the vacant and peaceful possession of the premises in dispute to the landlord on or before 31.12.2007.

The applicant did not furnish the aforesaid undertaking within the time allowed by this court before the learned trial court. However, the appellant deposited all the arrears of rent and is

depositing the rent, as directed by this court under order dated 18.07.2005. It was submitted that when the appellant, after the expiry of the period of six weeks, wanted to submit the undertaking the same was not accepted by the learned trial court. It is submitted that undertaking has since been filed before the learned trial court.

On the application, notices were issued and in response to the same, the landlord has appeared.

Looking to the facts and circumstances that the time allowed by this court for vacating the premises is due to expire on 31.12.2007 and the fact that other conditions imposed by this court regarding payment of arrears of rent have been duly complied with and even as per the learned counsel for the respondent, the rent is being paid month by month without default and further that undertaking has since been furnished before the learned trial court, I deem it just and proper to extend the time for submitting the undertaking before the learned trial court upto 16th October, 2006 on the condition that the applicant shall pay to the respondent a cost of Rs.5,000/- or deposit the same in court or in the bank account of the respondent before 16.10.2006, failing which the respondent-decree holder would be entitled to execute the decree.

Consequently, the misc. application stands disposed of.

(DALIP SINGH),J.

Solanki DS, Jr.P.A.